

AFFIDAVIT

Case No. 3:18-MJ-2094
FILED

AUG 01 2018

I, Terry Pate, being duly sworn, depose and state as follows:

1. I, Investigator Terry Pate, have been employed as a ~~Police Officer with the City of~~
~~District of Tennessee~~
~~At Knoxville~~

Knoxville, Tennessee, since December 1999. I have been involved in the field of law enforcement for more than eighteen years and am currently assigned to the Criminal Investigations Division, Appalachia High Intensity Drug Trafficking Area Drug Related Death Task Force, a unit that is charged with the investigation of criminal conduct in violation of the laws of the State of Tennessee and of the United States, concerning controlled substances, focusing on illegal drug dealing, prostitution, weapons offenses, and other vice crimes. In the performance of my duties, I have conducted and participated in numerous investigations involving weapons and controlled substances and other general investigations of state and federal laws, including the manufacture, sale, distribution, importation, possession, and conspiracy to possess or sell and distribute various controlled substances. These investigations have utilized various investigative tools and techniques, including but not limited to the use of confidential informants, undercover operations, search warrants, Title III wire intercepts, surveillance, controlled purchases, and interdiction of deliveries and shipments of controlled substances. I have received specialized training in drug enforcement from the Knoxville Police Department Training Academy, the Multi-Jurisdictional Counter-Drug Task Force, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Regional Counter-Drug Training Academy, the Institute of Police Technology and Management, and the Drug Enforcement Administration. Furthermore, I have kept myself abreast of weapon and drug enforcement efforts, case development, investigative techniques and other standardized methods of investigation of drug

and weapon related offenses. As a result of this training, prior experience, previous cases with which I have been involved, and by working with other municipal, state, and federal agents, I have become familiar with the methods, operations, and schemes commonly employed by individuals involved in the violations of controlled substance and weapons statutes.

2. Based upon my experience and training, I have found that persons who are involved in the acquiring, selling, and distributing of controlled substances often utilize cellular telephones in their criminal activities. Persons involved in the acquiring, selling, and distributing of controlled substances frequently utilize cellular voice communications and text messaging communication to arrange meetings and deal locations, place orders of controlled substances, arrange for payments and deliveries, make inquiries on the availability and current prices of controlled substances, and relay other information and arrange other activities among suppliers, customers, and co-conspirators. These persons also commonly keep information concerning their illegal activities on their cellular telephones, stored as digital data and/or photographs. Therefore, I know that cellular telephones used by drug traffickers often contain electronic media and data of various types, including, without limitation, the following: phone numbers and corresponding names and/or 'street names' (*i.e.*, address book-type information); a register of incoming, outgoing, and missed phone calls; incoming, outgoing, and stored text messages; voicemail messages; photographs; digital notes; other digital voice recordings (most cellular telephones can be used as digital audio recorders); deleted data, including any or all of the foregoing types of data, that still may remain in the devices electronic memory despite attempts to delete the data; all relating to drug trafficking and drug trafficking associates/co-conspirators.

3. This affidavit is based on my personal knowledge and participation in this investigation, as well as through information I received from other police officers and, as noted, from other individuals.

4. On June 11, 2018, Michael Whitcher (Whitcher) reported to the Knoxville Police Department (KPD) that he had been robbed by four black males armed with handguns. Whitcher reported that he was assaulted and robbed of \$900 (in denominations of \$20 and \$100 bills), two Apple iPhones, two grams of marijuana, and his wallet which contained his identification.

5. On June 13, 2018, I and other members of KPD executed a state search warrant at Knoxville Star Storage located at 5500 Central Avenue Pike, Building 3, Unit 323, Knoxville, Tennessee. Inside I discovered approximately 247.9 grams of a gray, rock-like substance, believed to be heroin and sixteen orange pills which were identified as 40 milligram oxymorphone hydrochloride extended-release tablets. Other than a big-screen television, these drugs were the only items being stored inside Unit 323. (As a side note, some drug traffickers occasionally accept valuable items, such as big-screen televisions and other electronics, in exchange for drugs.) The attendant of Knoxville Star Storage stated that the person who rented storage unit 323 was Whitcher. The attendant provided me with a copy of Whitcher's Michigan identification card and stated that Whitcher would arrive on foot and stay for about five minutes at a time inside the unit. The attendant continued to explain that Whitcher never appeared to take anything to the unit, or retrieve anything from it, despite sometimes accessing the unit twice daily.

6. On June 15, 2018, Whitcher arrived at Knoxville Star Storage with several other people. Whitcher was taken into custody as he attempted to enter the unit. At the time of his

arrest, he was found to be in possession of an unopened bottle of Equate brand acetaminophen p.m. and three cellular telephones:

- (1) a silver and black ZTE flip phone, model # Z233V, serial number 32F4763402B2, IMEI 990008872250688, MEID HEX 99000887225068, FCC ID: SRQ-Z233VL (photo of unique identifiers inside phone inserted below);



- (2) a white and silver Apple iPhone 6, model # A1549, IMEI 354411067599317, IC: 579C-E2816A, FCC ID: BCG-E2816A (photo of unique identifiers inside phone inserted below);



(3) a black and silver Apple iPhone 6, model # A1549, IMEI 354448065367214, IC: 579C-E2816A, FCC ID: BCG-E2816A (photo of unique identifiers inside phone inserted below).



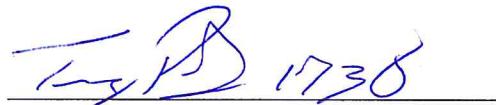
7. On June 15, 2018, I took possession of the three cellular telephones from Whitcher for the purpose of applying for a search warrant to search the cellular telephones. The cellular telephone have been in the continuous custody of the Knoxville Police Department since that time. Due to the technical nature of the evidence involved, its sensitivity, and the expertise required to search and capture it, I may request the assistance of other officers with the execution of this warrant and the search and examination of the three cellular telephones listed above.

8. Whitcher was unaware that I executed the search warrant for Unit 323 on June 13, 2015. Thus, Whitcher would have expected to find his heroin and oxymorphone inside Unit 323 on June 15, 2018. Accordingly, Whitcher's attempt to access Unit 323 on that day was associated with his drug trafficking activities. Moreover, Whitcher's possession of multiple cellular telephones was indicative drug trafficking.

9. On June 19, 2019, a federal grand jury sitting in the Eastern District of Tennessee, case number 3:18-cr-82, indicted Whitcher for possession with intent to distribute one-hundred grams or more of a mixture and substance containing a detectable amount of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(B).

10. Based upon the foregoing, probable cause exists to believe that evidence regarding drug trafficking, in violation of Title 21, United States Code, Section 841(a)(1) is currently contained inside the three cellular telephones seized from Whitcher on June 15, 2018.

FURTHER AFFIANT SAITH NOT.



Investigator Terry Pate
Knoxville Police Department

Subscribed and sworn to before me
on this 23 day of July, 2018.



H. BRUCE GUYTON
UNITED STATES MAGISTRATE JUDGE